

248 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34555-2020 (O&M)

Date of decision : 14.01.2021

KULWINDER SINGH

... Petitioner(s)

Versus

STATE OF PUNJAB AND ANOTHER

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Munish Garg, Advocate for the petitioner.

Mr. V.G. Jauhar, Senior DAG, Punjab.

Mr. Varun Singh Dhanda, Advocate for

Mr. YashpreetKharar, Advocate for respondent No.2.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

On 29.10.2020, the following order was passed:

“Heard through video conferencing.

This is a petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.0497 dated 10.11.2018 under Section 379 of the Indian Penal Code, 1860 registered at Police Station City Barnala, District Barnala and all other consequential proceedings arising there-from, on the basis of Panchayati compromise dated 27.02.2019 (Annexure P-2) arrived at between the parties.

*Learned counsel for the petitioner has contended that the allegation against the petitioner was that he had not paid for the fuel that he had got filled from the petrol pump of respondent No.2. He has further contended that the parties have since entered into a compromise and the complainant no longer wishes to pursue the FIR. Learned counsel for the petitioner has relied upon the judgement of Hon'ble Supreme Court rendered in **“Gian Singh V/s State of Punjab and another”** 2012 (4) RCR (Criminal) 543 and the Larger Bench's judgement of this Court in **“Kulwinder Singh and others V/s State of Punjab and another”** 2007 (3) RCR*

(Criminal) 1052, to contend that even in non-compoundable offences, if the parties have entered into a compromise, this Court has wide powers under Section 482 CrPC to quash the proceedings to prevent abuse of law and secure the ends of justice.

Notice of motion.

On the asking of the Court, Mr. Ramandeep Sandhu, Sr. DAG, Punjab, has joined the session through video conferencing and accepts notice on behalf of respondent No.1-State. Mr. YashveerKharab, Advocate, who has also joined the Court proceedings through video conferencing, accepts notice for respondent No.2/complainant. Copy of the petition has already been supplied to both the counsel.

Learned counsel appearing for respondent No.2 has stated that the parties have since entered into a compromise, a copy whereof is annexed as Annexure P-2 with the petition. He further submits that the said compromise has been duly signed by the complainant as well and now the parties have no grudge against each other and further that respondent No.2 has no objection if the aforesaid FIR is quashed.

List on 14.01.2021.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 24.11.2020, or on any other date convenient to the Court, for recording of their statements. The CJM/Illaq Magistrate/Trial Court is directed to record the statements of the parties to its satisfaction qua the genuineness of the compromise and that the same is not the result of any undue influence, coercion or pressure of any kind. A report, along-with the statements of the parties, on the following points be sent to this Court before the next date of hearing:

- 1) Whether the settlement/compromise dated 27.02.2019 (Annexure P-2) has been freely entered into between the parties without any undue influence, coercion or pressure of any kind.*
- 2) Whether any other criminal cases are pending against the parties.*
- 3) Whether any proclamation proceedings are pending against either of the parties."*

Statements of the parties have since been recorded and report has been received from the Judicial Magistrate First Class, Barnala stating therein that the compromise appears to be genuine, voluntary and

has been entered into without any coercion and undue influence. It has further been stated that the accused has never been declared as a proclaimed offender.

The Apex Court in the case of “Gian Singh V/s State of Punjab & Anr.” 2012 (10) SCC 303, has held as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between

the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Learned counsel for the petitioner has also referred to the law laid down by this Court in “**Kulwinder Singh &Ors. Vs. State of Punjab &Anr.**” 2007 (3) RCR (Criminal)1052, wherein it has been held that even in non-compoundable offences, if the parties have entered into a compromise, this Court has wide powers under Section 482 of the Code of Criminal Procedure, 1973 to quash the proceedings to prevent abuse of law and secure the ends of justice.

In view of the above and keeping in view the report by the Trial Court that the parties have genuinely entered into a compromise and all the disputes between the parties have been resolved, it would not be in the interest of justice to continue the criminal proceedings.

Resultantly, FIR No.0497 dated 10.11.2018 under Section 379 of the Indian Penal Code, 1860 registered at Police Station City Barnala, District Barnala and all other consequential proceedings arising there-from, stand quashed.

The petition is accordingly allowed.

January 14, 2021

kv

**(ALKA SARIN)
JUDGE**

**NOTE: Whether speaking/non-speaking: Speaking
Whether reportable :YES/NO**